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APR 01 2005

OFFICE OF PETITIONS

In re Application of
Oashi et al.
Application No. 09/587,107
Filed: June 2, 2000
Reissue of Patent No. 5,767,845
Original Issue Date: June 16, 1998
Attorney Docket No. 52478-0900

Decision on Petition

This is a decision on the petition under 37 CFR 1.47(a), filed November 29, 2004. A copy of the petition was resubmitted on March 3, 2005. This decision will also discuss the papers filed February 18, 2005.

The petition under 37 CFR 1.47(a) is **dismissed**.

Facts:

A final Office action was mailed August 27, 2004. The Office action stated the declaration which had been filed was defective.

A supplemental declaration was filed on November 29, 2004. The declaration did not include a signature of one of the inventors. A petition under 37 CFR 1.47 was filed requesting the Office accept the declaration without the signature of all of the inventors.

On February 18, 2005, petitioner filed a paper entitled, "Petition to Accept Reissue Declaration Executed By the Assignee." The paper stated, "It is hereby requested that this be accepted by the U.S. Patent Office in lieu of applicant's earlier Petition on a Missing Inventor's Signature that has yet to be acted upon by the U.S. Patent Office."

A Notice of Appeal was filed on February 28, 2005.

A copy of the November 29, 2004 petition was submitted on March 3, 2005.

Analysis:

Once a fully executed oath or declaration has been filed in an application, the provision of 37 CFR 1.47 no longer apply. The remedy for treating an inventor's refusal to sign a supplemental oath or declaration is waiver of 37 CFR 1.67. MPEP 603 states,

When an inventor who executed the original declaration is refusing or cannot be found to execute a required supplemental declaration, the requirement for that inventor to sign the supplemental declaration may be suspended or waived in accordance with 37 CFR 1.183.

The Office has chosen not to interpret the instant petition as a petition filed under 37 CFR 1.183. Effective November 1, 2004, the fee for a petition under 37 CFR 1.47 was raised to \$200 and the fee for a petition under 37 CFR 1.183 was raised to \$400. Therefore, treating the petition as a petition filed under 37 CFR 1.183 would require the Office charge an additional \$200 to

petitioner's deposit account. The content of the February 18, 2005 submission appears to indicate that petitioner would not desire an additional fee be charged for the petition.

The submission of a copy of the petition on March 3, 2005, indicates a possibility that petitioner wishes to proceed with the petition. If petitioner wishes to seek relief under 37 CFR 1.183 to waive 37 CFR 1.67, petitioner may file a petition under 37 CFR 1.183 and may request the \$200 charged for the instant petition under 37 CFR 1.47 be applied towards the \$400 fee.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 872-9306
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
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Randolph Building
401 Dulany Street
Alexandria, VA 22314

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

Telephone inquiries concerning this decision should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.



Charles Steven Brantley
Petitions Attorney
Office of Petitions